

108TH CONGRESS  
2D SESSION

# H. R. 3935

To amend title XVIII of the Social Security Act to provide geographic equity in fee-for-service reimbursement for providers under the Medicare Program.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 2004

Mr. WU introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to provide geographic equity in fee-for-service reimbursement for providers under the Medicare Program.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Medicare Equity and  
5       Fairness in Fee-for-Service Reimbursement Act of 2004”.

1 **SEC. 2. IMPROVING FAIRNESS OF PAYMENTS TO PRO-**  
 2 **VIDERS UNDER THE MEDICARE FEE-FOR-**  
 3 **SERVICE PROGRAM.**

4 Title XVIII of the Social Security Act, as amended  
 5 by section 1016 of the Medicare Prescription Drug, Im-  
 6 provement, and Modernization Act of 2003 (Public Law  
 7 108–173), is amended by adding at the end the following  
 8 new section:

9 “IMPROVING FAIRNESS OF PAYMENTS UNDER THE  
 10 ORIGINAL MEDICARE FEE-FOR-SERVICE PROGRAM  
 11 “SEC. 1898. (a) ESTABLISHMENT OF SYSTEM.—Not-  
 12 withstanding any other provision of law, the Secretary  
 13 shall establish a system for making adjustments to the  
 14 amount of payment made to providers of services and  
 15 health care professionals for services provided under the  
 16 original medicare fee-for-service program under parts A  
 17 and B.

18 “(b) SYSTEM REQUIREMENTS.—

19 “(1) ADJUSTMENTS.—Under the system de-  
 20 scribed in subsection (a), the Secretary (beginning in  
 21 fiscal year 2005 or calendar year 2005, as the Sec-  
 22 retary determines appropriate for the type of serv-  
 23 ices involved) shall make the following adjustments:

24 “(A) STATES ABOVE NATIONAL AVER-  
 25 AGE.—Subject to subparagraph (C), if a State  
 26 average per beneficiary amount, but for the ap-

1           plication of this section, for a year is greater  
2           than 100 percent of the national average per  
3           beneficiary amount for such year, then the Sec-  
4           retary shall reduce the amount of applicable  
5           payments in such a manner as will result (as  
6           estimated by the Secretary) in the State aver-  
7           age per beneficiary amount for the subsequent  
8           year being at 100 percent of the national aver-  
9           age per beneficiary amount for such subsequent  
10          year.

11           “(B) STATES BELOW NATIONAL AVER-  
12          AGE.—Subject to subparagraph (C), if such a  
13          State average per beneficiary amount for a year  
14          is less than 100 percent of the national average  
15          per beneficiary amount for such year, then the  
16          Secretary shall increase the amount of applica-  
17          ble payments in such a manner as will result  
18          (as estimated by the Secretary) in the State av-  
19          erage per beneficiary amount for the subse-  
20          quent year being at 100 percent of the national  
21          average per beneficiary amount for such subse-  
22          quent year.

23           “(C) 3-YEAR PHASE IN.—In applying this  
24          paragraph for—

1 “(i) fiscal year 2005 or calendar year  
 2 2005, the amount of any increase or de-  
 3 crease under subparagraph (A) or (B)  
 4 shall be 25 percent of the amount of the  
 5 increase or decrease otherwise provided;

6 “(ii) fiscal year 2006 or calendar year  
 7 2006, the amount of any increase or de-  
 8 crease under subparagraph (A) or (B)  
 9 shall be 50 percent of the amount of the  
 10 increase or decrease otherwise provided;  
 11 and

12 “(iii) fiscal year 2007 or calendar  
 13 year 2007, the amount of any increase or  
 14 decrease under subparagraph (A) or (B)  
 15 shall be 75 percent of the amount of the  
 16 increase or decrease otherwise provided.

17 “(2) DETERMINATION OF AVERAGES.—

18 “(A) STATE AVERAGE PER BENEFICIARY  
 19 AMOUNT.—Each year (beginning in 2004), the  
 20 Secretary shall determine a State average per  
 21 beneficiary amount for each State which shall  
 22 be equal to the Secretary’s estimate of the aver-  
 23 age amount of expenditures under the original  
 24 medicare fee-for-service program under parts A

1           and B for the year for a beneficiary enrolled  
2           under such parts that resides in the State.

3           “(B) NATIONAL AVERAGE PER BENE-  
4           FICIARY AMOUNT.—Each year (beginning in  
5           2004), the Secretary shall determine the na-  
6           tional average per beneficiary amount which  
7           shall be equal to the average of the State aver-  
8           age per beneficiary amounts determined under  
9           subparagraph (B) for the year.

10          “(3) APPLICABLE PAYMENTS DEFINED.—In  
11          this section, the term ‘applicable payments’ means  
12          payments made to providers of services and health  
13          care professionals for services provided under the  
14          original medicare fee-for-service program under  
15          parts A and B to beneficiaries enrolled under such  
16          parts that reside in the State.

17          “(c) BENEFICIARIES HELD HARMLESS.—The provi-  
18          sions of this section shall not effect—

19                 “(1) the entitlement to items and services of a  
20                 beneficiary under this title, including the scope of  
21                 such items and services; or

22                 “(2) any liability of the beneficiary with respect  
23                 to such items and services.

1       “(d) REGULATIONS.—The Secretary, in consultation  
2 with the Medicare Payment Advisory Commission, shall  
3 promulgate regulations to carry out this section.”.

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